

EXECUTIVE SUMMARY

2013 ACTS AFFECTING ATRS

The 89th General Assembly met from January 2013 through the later part of April 2013. The ATRS Board had a 23 bill package that included its appropriation bill for the coming fiscal year. Of those 23 bills, 22 became a law.

The focus of ATRS coming into the 2013 session was to do the following:

1. Streamline operations and implement cost savings

ATRS obtained authority to enter into contracts of longer than seven years and to eliminate the need for all contracts to be re-executed like new contracts every seven years. This will allow ATRS to maintain quality contracts and pricing with quality managers and service providers such as consultants, actuaries and custodial banks. In addition, ATRS litigation will occur in Pulaski County versus across the state as it has been in the past.

2. Remain focused on eliminating unfair advantages and find cost savings

ATRS implemented new methods of determining final average salary to prevent an ATRS member from being employed in a reciprocal retirement system such as APERS for 1 year and using that 1 year to actually double the retirement benefit by ATRS. Now ATRS will blend the other system's salary with ATRS salary to ensure that the final average salary is not manipulated or spiked. This change will become effective July 1, 2014.

In addition, ATRS streamlined eligibility for survivor benefits and disability to require five years of service at ATRS before either of these benefits become available to a member.

ATRS also had a 1% reduction for every year that a contributory member had service for entry into T-DROP. For instance, a contributory member with thirty years of service received 70% of what the retirement benefit would be and a noncontributory member received 82% of what their retirement benefit would be.

Legislation was passed to equalize this amount with both receiving 70% of what the retirement benefit would have been placed into a monthly deposit. Numerous legislative items such as these were adopted to streamline operations and cut cost, and to more treat members on an equal basis.

Another example is that ATRS no longer recognizes nonmonetary compensation in salary. For instance, a school official living in school housing can no longer claim the value of the school housing as salary for the purposes of retirement.

One important bill was passed that will allow ATRS to buy out inactive vested members at a discount which helps those members by allowing them to realize value from their time at ATRS and be able to convert that right to a future benefit and to immediate cash or into an IRA. As expected, this will be a popular program for ATRS that helps those inactive members while, at the same time, reduces the overall ATRS liability to maintain its strength

3. Obtain authority to implement benefit changes, if needed

Legislation was passed to allow the ATRS Board to address a critical funding problem if one arises. The ATRS Board obtained legislation authorizing it to increase member contributions, decrease multipliers applied on member's benefits, reduce the insurance stipend, and similar changes. It is hoped that ATRS does not need to use any of that authority but it will be there if needed.

4. Protect the COLA

The Cola remains AT 3%!

5. Maintain the privacy of member benefits and information

Member benefits and information remain protected.

6. Maintain the current system governance

Importantly, governance was left with the 15-member Board that has worked so well with the General Assembly in the past. ATRS expects the working relationship will continue.

7. Make great investments

ATRS is having a good year in the markets to improve the actuarial value! Importantly, ATRS currently has about a 12% return this fiscal year. With a 17% return, ATRS will be back on to a 30 year amortization on an unsmoothed basis. Hopefully, the markets can continue to lift ATRS and no cuts or changes of any type will be necessary.

Summary

ATRS has ended the session with 22 ATRS package bills and one appropriation bill for 23 total bills in this session. Of the 23 bills, 22 bills have become law. The General Assembly recessed this week and will have an official ending of the session with a brief ceremonial sine die adjournment on May 17, 2013. ATRS staff is grateful to the General Assembly and Governor Beebe for all the support for the ATRS package bills in the 2013 session. Special thanks go to the Public Retirement Committee Co-Chairs, the members of the Public Retirement Committee, and all the sponsors of the ATRS package bills. ATRS now has the tools necessary to address any critical funding issue that may arise in the future. Market returns have been good this fiscal year and hopefully will remain strong despite occasional market fluctuations like this past week.

All the bills that became acts this session work together in a comprehensive fashion to allow the ATRS Board greater flexibility in ensuring quality benefits for all members, protecting the retirement benefits of current retirees, while ensuring the financial strength of ATRS. Unlike what has happened in several other states, the General Assembly, the Public Retirement Committee, Governor Beebe, and the ATRS Board have worked in a united fashion to give ATRS needed flexibility in a fiscally responsible manner to maintain the financial strength of ATRS!

The entire ATRS bill package was built around a "shared responsibility" approach. The approach has been totally supported by the Public Retirement Committee, the State Senate, the House of Representatives, and Governor Beebe. The 2008 and 2009 financial crisis is still being absorbed by ATRS and other pension plans around the country. Remember that ATRS currently has an investment return this fiscal year of approximately 12%. If ATRS continues to have good investment returns through June 30 and closes the year with a 17% or greater return, then ATRS will be back to a very safe 30 year unsmoothed amortization needed to pay off its unfunded liabilities. With the ATRS package of Acts, ATRS now has the tools to keep ATRS strong as time goes by. ATRS had a very good session thanks to the help of so many Senators, Representatives, Governor Beebe, ATRS Trustees, ATRS members, supporters and friends! Words cannot express all the appreciation about the support and dedication to protect the 3R's of ATRS: to **R**ecruit, **R**etain and **R**eward career educators!

ATRS PACKAGE ACTS: 22 ACTS OUT OF 22 TOTAL PACKAGE BILLS & 1 APPROPRIATION BILL

<u>ACT</u>	<u>Sponsor</u>	<u>Description</u>	<u>Effective</u>
ACT 45	Sen. Hutchinson	<i>Appeal of BOT decision to be filed in Pulaski County</i>	8/2013
ACT 109	Sen. Thompson	<i>BOT may issue minimum rules for IRS requirements</i>	2/19/2013
ACT 140	Rep. Lenderman	<i>Technical corrections</i>	8/2013
ACT 303	Sen. Thompson	<i>Clarify the meaning of manifest injustice</i>	8/2013
ACT 304	Sen. Thompson	<i>Ensure ATRS compliance with prudent investor rule</i>	3/11/2013
ACT 336	Sen. Thompson	<i>Allow deletion of years which contributions are owed</i>	3/14/2013
ACT 448	Sen. Thompson	<i>Compel payment from delinquent ATRS employers</i>	7/1/2013
ACT 493	Rep. Lenderman	<i>Clarify disability retirement requirements</i>	7/1/2013
ACT 521	Sen. Cheatham	<i>Definition of salary, contract buy out provisions</i>	3/28/2013
ACT 555	Sen. Thompson	<i>Limit the use of a reciprocal system's salary in FAS</i>	7/1/2013
ACT 571	Rep. Lenderman	<i>Survivors receive benefits from date of application</i>	7/1/2013
ACT 602	Sen. Maloch	<i>BOT may set member contribution rate AS REQUIRED</i>	4/4/2013
ACT 603	Sen. Hutchinson	<i>Allow BOT to modify benefit stipend AS REQUIRED</i>	7/1/2013
ACT 605	Sen. Cheatham	<i>T-DROP reduction for noncontributory service equalized</i>	7/1/2013
ACT 606	Sen. Cheatham	<i>Discounted buyout of service credit</i>	8/2013
ACT 607	Sen. Key	<i>New PSHE college employees can enroll in ATRS</i>	7/1/2013
ACT 720	Rep. Lenderman	<i>Allow current salary to be used in FAS calculation</i>	7/1/2013
ACT 966	Rep. Catlett	<i>Allow BOT to modify multipliers AS REQUIRED</i>	7/1/2013
ACT 967	Rep. Deffenbaugh	<i>Allow BOT to rescind compound COLA AS REQUIRED</i>	7/1/2013
ACT 1304	Joint Budget	<i>ATRS Appropriation Bill for Fiscal Year 2014</i>	7/1/2013
ACT 1399	Sen. Cheatham	<i>BOT modify employer contribution rate AS REQUIRED</i>	8/2013
ACT 1446	Rep. Kizzia	<i>Employer contribution raise authorized AS REQUIRED</i>	8/2013

ACTS AFFECTING ATRS OUTSIDE OF ATRS PACAKGE

ACT 44	Sen. Thompson	<i>Allow State Retirement Systems to Require QDROs</i>	8/2013
ACT 86	Sen. Thompson	<i>Exclude Retirement Systems from unclaimed property</i>	8/2013
ACT 174	Sen. Thompson	<i>Clarify paying survivor benefits to minors</i>	8/2013
ACT 223	Rep. Gossage	<i>Allow purchase of classified private school service</i>	8/2013
ACT 337	Sen. Maloch	<i>Retirement options for college employees</i>	7/1/2013
ACT 449	Sen. Key	<i>Participation of school resource officers</i>	8/2013

IMPACT AND ANALYSIS OF ATRS PACKAGE BILLS AFFECTING ATRS, MEMBERS, AND EMPLOYERS

ACT 1304

Bill# **Sponsor: Joint Budget Committee**

SB 76 **An act for the Arkansas Teacher Retirement System appropriation for the 2013-2014 fiscal year**

Effective: 07/01/2013

Explanation: The ATRS appropriation bill has already been reviewed by Governor Beebe and by the General Assembly in the fall budget hearings. The appropriation bill authorizes the payment of retirement benefits, and the administrative costs of operating ATRS.

The ATRS appropriation bill has "Governor's Letter" to request an amendment to the bill. SB164 became Act 606 of 2013. Act 606 establishes a discounted buyout for inactive vested ATRS members. The Governor's Letter seeks an amendment to allow ATRS additional funding to pay for the discounted buyout program with an extra \$75 million dollars added for that particular purpose.

ATRS appeared before the Personnel Committee on February 7, 2013, and the Committee approved the additional positions requested by ATRS to add counselors and other positions to better serve members.

Status:

4/18/13 – Notification that SB76 is now Act 1304

ACT 303 OF 2013

Bill# **Sponsor: Senator R. Thompson**

SB 110 **To clarify the meaning of manifest injustice as it applies to decisions of the Arkansas Teacher Retirement System in correcting errors**

Effective: 08/2013

Explanation: This bill gives the Board and, through delegation, the executive director, the ability to better help members and other benefit participants when a member makes a mistake or otherwise takes action that causes great harm. The standard for assisting the member under manifest injustice requires a high standard; however, currently many mistakes by members cannot be corrected at all. This rule gives ATRS greater ability to help an innocent member under very strict circumstances. Under certain circumstances the law could be

also applied to help an employer.

Status:

3/11/13 - Notification that SB110 is now Act 303

ACT 304 OF 2013

Bill#

Sponsor: Senator R. Thompson

SB 111

To ensure that the state retirement systems comply with the prudent investor rule in the renewal and review process for the investment and management of assets of the system and to declare an emergency

Emergency Clause: Effective 03/11/2013

Explanation: This bill still requires ATRS to go through a strict procurement process to enter into investment contracts and other highly specialized contracts with consultants and actuaries. However, once a contract is established, the state's automatic termination requirements after seven years would not apply since ATRS often keeps investment managers for decades with highly favorable fees that could be lost in a mandatory rebidding process. Plus, ATRS constantly monitors these contracts and frequently will terminate an under-performing manager without regard to a contract's duration. The ATRS Board would use prudent investor standards to establish the terms of any extension of a properly procured contract.

Status:

3/11/13 - Notification that SB111 is now Act 304

ACT 109 OF 2013

Bill#

Sponsor: Senator R. Thompson

SB 112

To allow the Board of Trustees of the Arkansas Teacher Retirement System to issue rules necessary to align with the rules of the Internal Revenue Service and to declare an emergency

Emergency Clause: Effective 02/19/2013

Explanation: ATRS must comply with many IRS requirements, restrictions, and duties. At times, a restriction or requirement may be eliminated or lessened. This bill will allow the ATRS Board to quickly modify the impact on its members to lessen the impact of such restrictions and requirements. The intent of this bill is to give the Board authority to limit the impact of IRS regulations on members' rights and benefits.

Status:

2/19/13 - Notification that SB112 is now Act 109

ACT 448 OF 2013

Bill#

Sponsor: Senator R. Thompson

SB 113

To compel payment of delinquent employer contributions from an Arkansas Teacher Retirement System employer for amounts due and to declare an emergency

Effective: 07/01/2013

Explanation: Historically, ATRS has had little problem in collecting employer and member contributions from ATRS employers. With the addition of charter schools that often are operated with a different organizational structure from a standard public school, ATRS has had difficulty collecting contributions at times and has seen members impacted by nonpayment of both employer contributions and even member contributions that were withheld and not remitted to ATRS by the employer. This bill gives ATRS limited authority to obtain payment from the Department of Education from funds due from any public school or charter school.

Status:

3/21/13 - Notification that SB113 is now Act 448

ACT 555 OF 2013

Bill#

Sponsor: Senator R. Thompson

SB 116

To limit the use of a reciprocal system's calculation of final average salary for an Arkansas Teacher Retirement System member; to declare an emergency

Effective: 07/01/2013

Explanation: ATRS members are subject to a three year final average salary calculation upon retirement. ATRS will currently use a reciprocal system's final average salary for a member with service in ATRS and another Arkansas public retirement system if the other system's final average salary is higher. At times, ATRS is relying upon a member's one-year salary from another system to give a member a higher benefit from ATRS. This bill would only use the reciprocal system's final average salary if it were based upon the same number of years as the ATRS calculation. If less, ATRS would still give credit for the higher salary in the other system, but use that salary in combination with ATRS' salary using the ATRS final average salary formula. This is much fairer to the membership as a whole and prevents a circumstance where a member could literally double their retirement benefit in one year by working for an employer in another Arkansas public retirement

system at twice the member's former salary.

Status:

4/2/13 - Notification that SB116 is now Act 555

ACT 602 OF 2013

Bill#

Sponsor: Senator B. Maloch

SB 123

To set the member contribution rate in the Arkansas Teacher Retirement System between 6% and 7% of salary based on actuarial need and to declare an emergency.

Emergency Clause: 04/04/2013

The ATRS Board decided on Monday, February 4, 2013, to limit any Board right to adjust the member contribution in SB123 to only add 1% instead of 2%. Remember this bill is an emergency back-up to allow the ATRS Board to address critical funding issues responsibly and then allows the ATRS Board to return the contribution rate back to the original rate IF it is ever raised. Here the ATRS Board signaled very loudly that this is a last and limited resort!

Explanation: This is one of the "**AS REQUIRED**" bills proposed by the ATRS Board. AS REQUIRED means that the ATRS Board is given the authority to make a change on the item ONLY if recommended by the actuary for ATRS in order to address a critical funding issue. (See front page for full explanation of "**AS REQUIRED**").

This bill gives the ATRS Board limited authority to raise the contribution rate above 6% but no higher than 7% and only as necessary to address a critical funding issue. The bill also authorizes the ATRS Board to reduce the contribution rate back to 6% as soon as possible if it is ever raised. The ATRS Board hopes never to use the authority to raise the contribution rate. The ATRS Board believes it is better for the ATRS Board to have a "buffet" list of items to have in response to actuarial needs instead of being powerless to make adjustments to protect the long term financial soundness of ATRS which leaves the responsibility to make needed changes on others.

This bill was amended to strengthen the actuarial requirements necessary to authorize any action by the ATRS Board.

Status:

4/4/13 - Notification that SB123 is now Act 602

ACT 45 OF 2013

Bill# **Sponsor: Senator J. Hutchinson**

SB 129 To specify that an appeal of a decision of the Board of Trustees of the Arkansas Teacher Retirement System shall be filed in the Pulaski County circuit court.

Effective: 08/2013

Explanation: ATRS now has an active appeal process established by the ATRS Board a few years ago. Appeals are now being filed in circuit courts across Arkansas. ATRS does not wish to add legal staff in order to handle the litigation of ATRS administrative appeals in circuit courts throughout the state. The retirement information and ATRS staff are all in Pulaski County; therefore, ATRS is seeking the right to use Pulaski County as the location where appeals from the ATRS Board are litigated. Several state agencies have this provision for this same reason.

Status:

2/6/13 - Notification that SB129 is now Act 45

ACT 603 OF 2013

Bill# **Sponsor: Senator J. Hutchinson**

SB 130 To allow the Board of Trustees of the Arkansas Teacher Retirement System to increase or decrease the stipend benefit for members as actuarially appropriate and to declare an emergency.

Emergency Clause: 7/1/2013

Explanation: This is one of the "**AS REQUIRED**" bills proposed by the ATRS Board. AS REQUIRED means that the ATRS Board is given the authority to make a change on the item ONLY if recommended by the actuary for ATRS in order to address a critical funding issue. (See front page for full explanation of "**AS REQUIRED**").

In 1999, almost all the public retirement systems in Arkansas were given authority to pay a stipend. ATRS still has a stipend, although some have eliminated it. This bill would allow the ATRS Board to lower the stipend below the current \$75 level if needed due to the financial condition of ATRS and to raise it back to \$75 if it were ever lowered. The ATRS Board hopes that the stipend will remain at \$75 without being cut, but understands that it needs to have flexibility in various ways to address any critical funding issues.

This bill was amended to strengthen the actuarial requirements necessary to trigger any action by the ATRS Board.

Status:

4/4/13 - Notification that SB130 is now Act 603

ACT 521 OF 2013

Bill#

SB 160

Sponsor: Senator E. Cheatham

To modify the definition of "salary" under the Arkansas Teacher Retirement System; to clarify the calculation of service credit and benefits paid to a member of the system; and to declare an emergency

Emergency Clause: 03/28/2013

Explanation: In meetings with administrators, concern was expressed that not paying lump sum payments on sick leave and annual leave at retirement might adversely impact attendance since many employees want extra salary to improve final average salary at retirement. This added retirement salary encourages employees to minimize use of sick and annual leave which benefits the education of students. The ATRS Board voted to strike the prohibition on using end of career payments for sick leave and annual leave due to this concern expressed by administrators. In place of the prohibition of sick leave as retirement salary, the bill now would allow the ATRS Board to consider future changes needed in salary by developing rules. The bill would still prohibit nonmonetary compensation from salary, will clarify contract buyout payments, and will still allow the purchase of time related to wrongful termination to assist both members and ATRS employers. The bill as changed is directly intended to promote quality education of students by encouraging careful use of sick and annual leave.

This bill is aimed at narrowing the definition of salary to wages earned. It would eliminate nonmonetary compensation such as housing, vehicles, perks, and allowances. In addition, it clarifies how contract buyouts and judgments may be used as salary. This prevents confusion and often large payments by employers for payments in litigation. Importantly, it helps members and employers by allowing a terminated employee and or the employer to purchase service for the "terminated time". This is only available for claims that the wrongful termination results in resolution of that claim by a mutual agreement or successful litigation. This prevents difficult damage calculations in court, encourages parties to resolve these cases when retirement benefits become a sticking point, prevents harm to a member whose termination prevented service credit from growing, and limits an employer's liability to restore the member's rights in the retirement system.

This bill is being amended to grant authority to the ATRS Board to set certain salary parameters for salaries to be used in the calculation of member benefits.

Status:

3/28/13 - Notification that SB160 is now Act 521

NEW ACT: ACT 1399 OF 2013

Bill# **Sponsor: Senator E. Cheatham**

SB 162 **To address employer contributions under the Arkansas Teacher Retirement System and to declare an emergency**

Effective: 8/2013

Explanation: This is one of the "**AS REQUIRED**" bills proposed by the ATRS Board. AS REQUIRED means that the ATRS Board is given the authority to make a change on the item ONLY if recommended by the actuary for ATRS in order to address a critical funding issue. (See front page for full explanation of "**AS REQUIRED**").

ATRS has not had an employer contribution rate increase in several years. In 2005, the General Assembly froze the ATRS employer contribution rate at a maximum of 14%. Due to the financial crisis and the resulting stock market disruption, the ATRS employer rate has been less than what is required to maintain a 30 year amortization to pay unfunded liabilities of the System. For example, since July 1, 2008, the APERS employer contribution rate as of July 1, 2013, will have increased 3.87% while the ATRS employer contribution rate has increased 0.0%. This bill would increase the ceiling for the employer rate to 15%. In addition, ATRS could only remain above 14% if the amortization period remains over 30 years. While the employer contribution rate is above 14%, ATRS could not enhance any benefits. Very importantly, any contribution increase would not be paid directly by the ATRS employers under this bill, rather, any contribution above 14% for public schools would be paid from a line item on the Department of Education's budget since ATRS expects any rate above 14% to be a temporary increase. If funds are not available in 2013-2014, ATRS at least requests the ability to increase contribution rates on July 1, 2015 in order that any actuarial needs of ATRS not be totally borne by ATRS members just like the state has allowed the other retirement systems to limit member cuts by increasing the employer contribution rate to help stabilize the other trust funds after the devastating financial crisis in 2008-2009.

Status: NEW ACT

4/22/2013 – Notification that SB162 is now Act 1339

ACT 605 OF 2013

Bill# **Sponsor: Senator E. Cheatham**

SB 163 **To treat the percentage of plan benefit equally in the Teacher Deferred Retirement Option Plan under the Arkansas Teacher Retirement System**

Effective: 07/01/2013

Explanation: When a member enters T-DROP, the member has a 1% reduction for every contributory year and reciprocal year of service credit. However, noncontributory service credit is only reduced by 0.6%. This bill makes a simple change to make all years of service credit a standard 1% reduction for administrative ease and to take away an incentive for members to remain noncontributory. This bill ensures that all members, regardless of the type of service credit, are treated the same.

Status:

4/4/13 - Notification that SB163 is now Act 605

ACT 606 OF 2013

Bill#

Sponsor: Senator E. Cheatham

SB 164

To establish a voluntary buyout plan for contributory and noncontributory inactive members of the Arkansas Teacher Retirement System to receive a one-time lump sum payment from the System

Effective: 08/2013

Explanation: This bill would give the ATRS Board authority to develop buyout plans for inactive members. ATRS has over 11,000 inactive vested members. ATRS carries a liability of \$700 million dollars for these inactive vested members. Many inactive members have only noncontributory service credit and would like the opportunity to be paid money for surrendering the members' interest in ATRS to either help with family finances or to roll into a retirement account. This bill will allow the ATRS Board to create a win-win for inactive members and the ATRS Board by allowing inactive members to obtain value for service credit that could become worthless while at the same time ATRS is removing actuarial liability at a good discount. The legislation would allow the Board to also have some mandatory aspects in a buyout plan in very narrow instances. Based upon staff contact, this should be a popular program once it is established by the Board if authorized by this bill.

This bill was amended to remove all references to a mandatory buyout plan; and makes any buyout provisions an optional plan for the members. It also encompasses surviving spouse benefits as one of the benefit rights that can be bought out by an eligible surviving spouse.

Status:

4/4/13 - Notification that SB164 is now Act 606

ACT 607 OF 2013

Bill# **Sponsor: Senator J. Key**

SB 174 To allow more options for an employee or employer of a post-secondary institution of higher learning to participate in the Arkansas Teacher Retirement System and to declare an emergency

Effective: 07/01/2013

Explanation: After July 1, 2011, some colleges no longer allow new employees to participate in ATRS. Some colleges do allow new employees to participate in ATRS. This bill loosens the requirement for a new employee of participating colleges to become an ATRS member. Currently, a member has to have five years of ATRS service credit to select ATRS when hired by a participating college. This bill will allow a new employee without any service credit in ATRS to become a member and provides a special one-time program to allow those originally prohibited from becoming a member of ATRS, due to the five-year rule, to become members and purchase service credit from July 1, 2011, or their hire date, whichever is later.

The bill was amended to make less restrictive qualifications for a PSHE employer to enroll a new employee into ATRS. The bill, as amended, makes the authority to reduce the current requirements as a voluntary decision at each PSHE employer. Unless the PSHE Employer acts to reduce eligibility requirements, the current standards will remain in place at the PSHE employer for new employees. The amendment has been adopted and is ready for Committee.

Status: NEW ACT

4/4/13 - Notification that SB174 is now Act 607

ACT 336 OF 2013

Bill# **Sponsor: Senator R. Thompson**

SB 197 Concerning the correction of errors on a member's account when the member owes a balance to the Arkansas Teacher Retirement System; to declare an emergency

Emergency Clause: Effective 03/14/2013

Explanation: This bill is designed to help members who for various reasons owe for mandatory contributions before the member can retire from ATRS. These sums have been previously billed to the member without the member finding a way to pay the contributions. Under the current law, until the contributions are paid, the member's retirement application cannot be processed. This bill will allow the ATRS Board to set up a

process for the member to either pay the contribution or to allow the member to waive the service credit in the fiscal year involved to allow the member to retire without the financial burden of paying an often large sum caused by the original contributions due and 8% compound interest over many years.

Status:

3/14/13 - Notification that SB197 is now Act 336

ACT 571 OF 2013

Bill#

Sponsor: Representative H. Lenderman

HB 1135

To allow eligible survivors to receive benefits from the date an application for survivor benefits is filed; to clarify surviving spouse benefits; and to declare an emergency

Effective: 07/01/2013

Explanation: ATRS works very hard to contact the family of a deceased member immediately after death. In most instances, ATRS becomes aware of a member's death in less than a week after death. Most families know that ATRS pays a death benefit which causes a lot of contact with ATRS. More importantly, ATRS uses specialized services, including state wide obituaries to track deaths daily. ATRS also uses state wide and national data bases on a frequent basis to find any that may otherwise have been missed. Due to specialized issues, occasionally ATRS has a family that will not file for survivor benefits due to some other payment program or some other potential advantage. Often, after a long period of time, an application is filed resulting in a lump sum amount for several years of survivor benefits. This bill provides that benefits are only paid from the date of application to discourage large lump sum payments outside normal administrative processes.

The bill was amended after a discussion in the Committee that a family should have a grace period in the first few months after a death to submit a survivor application without losing any monthly benefits. The original bill paid benefits beginning in the month the application was filed. The bill now allows essentially a three-month grace period without a reduction in benefits to give families a time to return to greater stability.

Status:

4/2/13 - Notification that HB1135 is now Act 571

ACT 493 OF 2013

Bill#

Sponsor: Representative H. Lenderman

HB 1136

To clarify disability retirement requirements and eligibility for administration in the

Updated Thursday, April 25, 2013

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Arkansas Teacher Retirement System and to declare an emergency

Effective: 07/01/2013

Explanation: The bill has been amended to place into law, a proposed rule by the ATRS Board. The amendment is a simple one that prohibits a disability retiree from using a corporation or company that is controlled by the disability retiree to perform services to an ATRS employer since a disability retiree cannot directly do so. The amendment is intended to prevent a disability retiree from doing indirectly what is currently prohibited from being done directly. It furthers the integrity of the process and closes a loophole.

This bill requires that a member have five years of service credit in ATRS in order to be paid an ATRS disability benefit. Under current law, ATRS would pay a disability benefit to a member with one-quarter year of service credit if the member had at least 4.75 years of service credit in a reciprocal Arkansas public retirement system. This bill would ensure that members obtaining ATRS disability benefits have a stronger connection to the System in order to receive a potential lifetime benefit from the System. This bill also only pays benefits back to the time of a disability application instead of allowing a member to have a year or more of benefits paid between the time of last work and the application as occurs now. Most programs only pay to the date of application and ATRS would also have that provision if this bill passes.

Status:

3/22/13 - Notification that HB1136 is now Act 493

ACT 720 OF 2013

Bill#

HB 1137

Sponsor: Representative H. Lenderman

To allow service credit and current salary to be used in the calculation of final average salary for members retiring other than the first day of a calendar quarter within a fiscal year and to declare an emergency

Effective: 07/01/2013

Explanation: Certain limitations exist when a member retires in the middle of a fiscal year. It is possible to earn a full year of service credit in ATRS in six months. The law is written to discourage members from reaching that one year of service credit and retiring in the middle of a school year and leaving students without the benefit of the same teacher for the rest of the year. For service credit, a member can only get service credit for the percent of the fiscal year actually worked. Members retiring on January 1 can only get one-half year of service credit, even if a full year has been earned. The current law allows a last year's salary to be used to calculate final average salary only if a member retires at the beginning of a quarter (October 1, January 1, April 1). This actually penalizes a member who completes a school year in May and retires on June

1. This bill recognizes the unintended consequence and eliminates salary as the basis for ensuring a member stays through the school year of the member's last year of employment. This protects members and actually helps schools when a member can be just as benefitted by retiring on June 1 instead of April 1 and not leaving a classroom open the last six weeks of school as the current law indirectly encourages.

Status:

4/4/13 - Notification that HB1137 is now Act 720

ACT 140 OF 2013

Bill#

HB 1188

Sponsor: Representative H. Lenderman

To make technical corrections to the Arkansas Teacher Retirement System Act

Effective: 08/2013

Explanation: This bill makes no substantive change but clarifies language to prevent confusion and to delete duplicated provisions.

Status:

2/20/13 - Notification that HB1188 is now Act 140

ACT 966 OF 2013

Bill#

HB 1194

Sponsor: Rep. J. Catlett

To allow the Board of Trustees of the Arkansas Teacher Retirement to adjust the multipliers for a life annuity if actuarially appropriate; to remove obsolete language; and to declare an emergency

Effective: 07/01/2013

Explanation: This is one of the "**AS REQUIRED**" bills proposed by the ATRS Board. AS REQUIRED means that the ATRS Board is given the authority to make a change on the item ONLY if recommended by the actuary for ATRS in order to address a critical funding issue. (See front page for full explanation of "**AS REQUIRED**").

This is a bill to give the ATRS Board authority to decrease the multiplier for contributory and noncontributory service for future years of service credit earned. All service credit earned through June 30, 2013, would be locked in at the current very strong rates for multipliers. Even if the Board had to reduce a multiplier, this not only allows the multiplier to be increased back to the original level, but it also allows the Board to increase the multipliers earned in previous years at a lower level to the highest level authorized. The wording of this

bill further establishes the ATRS Board's intent to not cut benefits or the accrual of benefits unless absolutely necessary and even it becomes necessary, the Board seeks authority to reinstate any cut that is no longer necessary. Hopefully, the markets will bring ATRS back to a 30 year or less amortization period. If not, this bill provides another option to the Board prior to cuts made by others that could possibly go beyond what is absolutely required.

In addition, this bill gives the Board authority to consider establishing rules that would allow the Board to pay a lower multiplier to members in their first 10 years of service, and would also authorize the Board to increase the multiplier after 10 years of service credit. This could encourage retention and address other issues of concern about some members coming to Arkansas only long enough to get vested and obtain a lifetime benefit without a long term commitment to Arkansas. Even if this bill is passed, the Board would not necessarily adopt this rule, but would have the authority to do so.

Finally, this bill limits benefits to what is established by the formula and eliminates a lot of complex minimum benefit language from the ATRS law.

This bill was amended to strengthen the actuarial requirements necessary to trigger any action by the ATRS Board.

Status:

4/8/13 - Notification that HB1194 is now Act 966

DIED IN COMMITTEE (The Lone ATRS Package Casualty)

Bill# **Sponsor: Representative D. Kizzia**

HB 1198 **To authorize the Board of Trustees of the Arkansas Teacher Retirement System to create a Tier II benefit program**

Emergency Clause: Effective immediately Upon Passage

Explanation: This is one of the "**AS REQUIRED**" bills proposed by the ATRS Board. AS REQUIRED means that the ATRS Board is given the authority to make a change on the item ONLY if recommended by the actuary for ATRS in order to address a critical funding issue. (See front page for full explanation of "**AS REQUIRED**"). This bill would only apply to members first obtaining service credit after July 1, 2013, or at some later date. The bill, as amended, authorizes the ATRS Board to modify the cost of living adjustment for newly hired employees after July 1, 2015. It would be likely be that the COLA would be adjustable but would remain at the standard 3% to give future flexibility due to a financial need.

ATRS was not unhappy about the Public Retirement Committee's rejection of this bill. It was a package bill that would have potentially lessened the benefits of future members. The ATRS Board was dedicated to show

to the General Assembly that ATRS was willing to make sacrifices across all member groups, if necessary, to obtain more state support by an employer contribution increase. The Public Retirement Committee felt the other package bills were adequate to give the ATRS Board all needed flexibility without lowering the benefit of future members. The important employer contribution increase authority was approved without this change. That is VERY GOOD NEWS that such potential cuts were not necessary! This helps protect the 3Rs of Recruit, Retain, and Reward career educators!

Status:

1/29/13 - Read the first time, rules suspended, read the second time and referred to the Committee on PUBLIC RETIREMENT & SOCIAL SECURITY PROGRAMS-JOINT

3/26/13 - Placed on second reading for the purpose of amendment

3/26/13 - Amendment No. 1 read and adopted and the bill ordered engrossed

3/26/13 - REPORTED CORRECTLY ENGROSSED

NEW ACT: ACT 1446 OF 2013

Bill#

HB 1199

Sponsor: Representative D. Kizzia

To amend provisions of the Arkansas code concerning teacher retirement system employer contributions

Effective: 8/2013

Explanation: HB1199 is an extension of SB162 with limitations requested by House Leadership. First, the bill freezes ATRS at the current contribution rate until fiscal year 2016 that starts on July 1, 2015. Until then, ATRS would remain at the current 14% rate. Second, the bill limits any employer increase in a fiscal year to 0.25% (25 basis points). This limits any additional revenue requirement in the State budget to no more than approximately \$6 million dollars per fiscal year. This eliminates quick jumps in costs. Third, the bill requires ATRS to make changes through cost savings in benefit programs and/or member contribution increases that equal or exceed the additional State contribution with the cost savings measurement to begin on July 1, 2013. See bullet point attached.

Status: NEW ACT

4/22/2013 – Notification that HB1199 is now Act 1446

ACT 967 OF 2013

Bill#

HB 1200

Sponsor: Representative Deffenbaugh

To allow the Board of Trustees of the Arkansas Teacher Retirement System to reset the benefit base amount for compounding cost of living adjustment rates; and to declare an emergency

Effective: 07/01/2013

Explanation: This is one of the "**AS REQUIRED**" bills proposed by the ATRS Board. AS REQUIRED means that the ATRS Board is given the authority to make a change on the item ONLY if recommended by the actuary for ATRS in order to address a critical funding issue. (See front page for full explanation of "**AS REQUIRED**").

ATRS has compounded the simple COLA in the past. If it became absolutely necessary, another tool the ATRS Board could consider to bring ATRS back to a 30 year amortization is to reverse a previous compounding of the COLA. Although very complex in administration, it is one benefit change that could be considered and would only affect retirees who had been retired at least one year prior to the compounding. Hopefully, this provision, like the other provision with the as required in red will never be necessary.

This bill was amended to strengthen the actuarial requirements necessary to authorize any action by the ATRS Board.

Status:

4/8/13 - Notification that HB1200 is now Act 967

IMPACT AND ANALYSIS OF OTHER BILLS AFFECTING ATRS, MEMBERS, AND EMPLOYERS

ACT 86 OF 2013

Bill# **Sponsor: Senator R. Thompson**

SB 115 To exclude funds distributable from a trust account established by a state-supported retirement system from the Unclaimed Property Act

Effective: 08/2013

Explanation: This bill was requested by APERS and is extra protection that if a public retirement system cannot find a member or beneficiary to pay funds on the books of a public retirement system, then the funds are not treated as unclaimed property, but remain within the trust funds of the retirement system. ATRS feels this bill is good since it prevents a potential loophole in protecting all trust funds from becoming part of the unclaimed property process in Arkansas.

Status:

2/14/13 - Notification that SB115 is now Act 86

ACT 44 OF 2013

Bill# **Sponsor: Senator R. Thompson**

SB 118 To allow state supported retirement system to require an order to substantially comply with the uniform legal form of a Qualified Domestic Relations Order (QDRO) to pay benefits; and to make technical corrections

Effective: 08/2013

Explanation: This bill was also requested by APERS to ensure that the model QDRO approved by a retirement system must be used. This prevents uncertainty in the application of QDROs for public retirement systems, including ATRS. The ATRS model QDROs is designed to be beneficial to members and not ex-spouses. This bill would ensure that ATRS is not required to vary its model QDRO due to a court ordering a different outcome.

Status:

2/6/13 - Notification that SB118 is now Act 44

ACT 449 OF 2013

Bill# **Sponsor: Senator J. Key**

SB 146 An act concerning the participation of school resource officers indirectly paid by a system employer in the Arkansas Teacher Retirement System; and for other purposes

Effective: 08/2013

Explanation: Representative Gossage worked with Senator Key to transform Senator Key's shell bill to allow school resource officers (certified law enforcement officers) to participate in ATRS even though law requires a certified officer to be employed by a law enforcement agency. Generally, ATRS would be a disadvantage as a retirement plan for a certified officer. However, the intended benefit of this amended bill is that public schools will have a VOLUNTARY OPTION to use this authorization if it benefits the public school and the officer. The most important thing that I said is that it is voluntary legislation that is not forced on the public school and is not forced upon the officer. It will help address a shortage of certified officers in areas of the state.

The policy behind this bill is that in many parts of the state, it is difficult to find experienced and wise law enforcement personnel who are willing to be a school resource officer. One often overlooked pool of law enforcement resources is retirees from APERS or LOPFI. School resource officers are often paid less than other officers. A retiree is more likely willing to accept a position at a public school for a lower salary if there is an opportunity for a small additional retirement benefit after five years of service. It is expected that the main pool of law enforcement that would take this ATRS member route will be retirees. The bottom line is that this bill would encourage older and hopefully wiser retired certified officers to help address the shortage of certified officers in parts of the state. Since it is strictly a local school's decision to allow an officer to participate, it will only happen based upon a voluntary decision by the school and the SRO.

This bill should have no fiscal impact on ATRS. SB146, once amended, is intended to further public policy of providing incentives for experienced and retired law enforcement officers to return to service while making our public schools safer.

Status:

3/21/13 - Notification that SB146 is now Act 449

ACT 174 OF 2013

Bill# **Sponsor: Senator R. Thompson**

SB 195 **To clarify the conditions under which the Arkansas Teacher Retirement System can pay a survivor benefit to a minor without a guardianship**

Effective: 08/2013

Explanation: ATRS currently requires a family to establish a guardianship for the survivor benefits paid to minors by ATRS. This was established to comply with Arkansas law that is in place to ensure the child actually receives the benefit of any payments.

A court approves any expenditure of the funds and requires recordkeeping on the funds to protect the funds from misuse. It also ensures a child receives the benefit of any funds spent. The funds not needed for immediate expenses can be saved for the child's future education or other needs. The court's approval and supervision of funds is currently required under Arkansas law and ATRS complies with the law.

This bill would eliminate the current court approval and supervision of most survivor payments to minors. The bill was recently amended to allow payments without a guardianship to "the child's parent, legal guardian, or legal custodian or to a trust company" as long as the annual benefit is below a certain amount per year. The bill still provides protection to ATRS if any money is misused. This is not an ATRS package bill and the ATRS Board has not taken a position on the bill.

Status: Act 174

3/1/13 - Notification that SB195 is now Act 174

ACT 337 OF 2013

Bill# **Sponsor: Senator B. Maloch**

SB 214 **Concerning the retirement options for employees of state-supported institutions of higher education**

Effective: 07/01/2013

Explanation: This bill was prepared for the U of A System and its member schools. This bill repeals several provisions about college participation in ATRS and APERS. It also directly prohibits the U of A System from becoming PSHE employers in ATRS at the U of A Systems' request and allows the U of A Systems to set the eligibility requirements for a new hire at the U of A Systems to participate in APERS. After a cleanup amendment requested by ATRS staff on the companion bill, ATRS staff sees this bill, if amended with the amendment suggested for the companion bill, as a quality cleanup bill that has no impact on ATRS since the U

of A has not allowed new employees to participate in ATRS since July 1, 2011, due to Act 513 of 2011 that was an ATRS Board proposal.

Status:

3/14/13 - Notification that SB214 is now Act 337

ACT 223 OF 2013

Bill#

Sponsor: Representative B. Gossage

HB 1227

To recognize private school service as eligible for benefits in the Arkansas Teacher Retirement System under certain circumstances

Effective: 08/2013

Explanation: Representative Gossage came to ATRS staff before this bill was introduced. ATRS staff appreciates Representative Gossage's approach by getting ATRS staff input before the bill was drafted. Some have expressed concern about this bill, since it allows the purchase of private school time by an ATRS member. This bill just allows classified employees to do what certified employees have been able to do for decades. ATRS staff will recommend that the ATRS Board support this bill since teachers and administrators from a private school can purchase private school service after becoming a member of ATRS and vesting. This bill brings fairness in that it would allow a bus driver, teacher's aide, or any other classified staff at a private school to be able to purchase their service from a recognized private school that has certified teachers. The purchase would be at actuarial cost so ATRS would not be financially impacted.

Status:

3/1/13 - Notification that HB1227 is now Act 223